IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 31319 of 2005(C)

AGAINST THE ORDER DATED 10/11/2005 IN EP 230 2003 IN OS.362/2000 of PRL.SUB COURT,IRINJALAKUDA

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PETITIONER:

HALEEMA, W/O.AHAMMED HAJI,
PADIYATH KARKIDAVATHINGAL HOUSE,
KODUNGALLOOR, TRICHUR DISTRICT.

BY ADV. SRI.P.S.DIVAKARAN
SRI.P.M.HARIS

RESPONDENTS:

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1. SOUTH INDIAN BANK LTD., THRISSUR.

2. M/S.GAPITAL TRADERS, CHANDPURA,
KODUNGALLUR, A PARTNERSHIP FIRM REPRESENTED BY
I.T.S., PARTNER SRI.P.K.RASHEED,
S/O.KOCHU MOIDEEN, PADIYATH HOUSE,
KARKIDAKAVALLAY HOUSSE, ERIYAD VILLAGE.

3. P.K.RASHEED, I.T.S. PARTNER,
S/O.KOCHU MOIDEEN, PADIYATH HOUSE,
KARKIDAKAVALLY HOUSE, ERIYAD VILLAGE,
KODUNGALLUR.

4. P.K.ABDUL KAREED, S/O.KUNJAVA,
THAIPARAMBIL HOUSE, KULIMUTTOM, PAPPINIVADAM
VILLAGGE, KODUNGALLUR-4.

5. FATHIMA, W/O.ABDUL RAHIMAN,
PADIYATH, KARKIDAKAVALLY HOUSE,
ERIYAD, KODUNGALLUR.

BY ADV. SRI.K.PRABHAKARAN, SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 31319 OF 2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE EXECUTION PETITION DT.20.08.2003.

EXT.P2 : TRUE COPY OF THE OBJECTION FILED BY THE JUDGMENT DEBTORS 1 TO 4 DT.12.3.2004.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 31319 OF 2005

Dated this the 30th day of May, 2007

JUDGMENT

Over ruling Ext.P2 objections filed by the petitioner-judgment debtor the execution court ordered sale of the properties belonging to the petitioner and in these proceedings under Article 227 he prays that the order directing sale be quashed. The ground which is prominently raised by the petitioner is that there is gross under valuation in the matter of ordering sale of the property. According to the petitioner, the property is worth Rs.55 lakhs and the same has been ordered to be sold for the amount shown in the proclamation schedule i.e. Rs.8,73,226/- While admitting this writ petition, stay was granted by imposing a condition that the petitioner either pays to the decree holder or deposits before the court below a sum of Rs.1 lakh.

2. Sri.K. Prabhakaran, Standing Counsel for the Bank submits that thereafter also payments have been made and according to the learned Standing Counsel, the petitioner has the financial ability to pay off the entire balance amount immediately. Sri.P.S.Divakaran, learned counsel for the petitioner submits that easy instalments may be granted for liquidating the liability since the petitioner has demonstrated his bonafides in the matter of discharging the debt by making payments.

Having regard to the rival submissions addressed before me, I am of the view that the Writ Petition can be disposed of by issuing the following directions:

The order of stay currently in force will continue for a period of six months on condition that the petitioner will remit at the rate of Rs.75,000/- in every month commencing from 15.07.07. In the event of any default, he will forfeit the above benefits.

PIUS C. KURIAKOSE, JUDGE

btt